

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,) Case No. CV 10-02161 DDP (FMOx)
12 Plaintiff,)
13 v.) **ORDER RE: PRODUCTION OF TEST
RESULTS**
14 THE JANKOVICH COMPANY and)
LLOYD'S SYNDICATE 1607, in)
15 personam,) [Motion filed on 7/29/11]
16 Defendant.)
_____)

18 This matter comes before the court on Defendant The Jankovich
19 Company ("Jankovich")'s Motion for Review of Magistrate Judge
20 Olguin's Order Re: Discovery Motion (Dkt. No. 134). As discussed
21 in Magistrate Judge Olguin's Order (Dkt. No. 128), Plaintiff seeks
22 oil samples and information related to oil samples from Jankovich.

23 As an initial matter, the court notes that Magistrate Judge
24 Olguin did not clearly err in his factual findings. Questions
25 regarding attorney-client privilege and the work-product doctrine
26 are reviewed de novo. United States v. Richey, 623 F.3d 559, 563-
27 564 (9th Cir. 2011); Anderson v. McKesson HBOC, Inc., 2005 WL
28 934331 at *3 (N.D. Cal. 2005).

1 Here, the parties clarified, as reflected on the record, that
2 much of the discovery sought is objective laboratory data resulting
3 from analysis of oil samples. Many, if not all, of those oil
4 samples have since been destroyed, and are no longer available for
5 testing. Under these exceptional circumstances, the parties have a
6 substantial need for the objective data that has been already been
7 gathered. Because each party is able to independently analyze
8 laboratory results, neither party requires information related to
9 the opposing party's interpretation of scientific data.
10 Furthermore, the court's preference for resolution of disputes on
11 the merits weighs in favor of production of the objective data,
12 which will not prejudice either party.

13 Accordingly, both parties are ordered to produce all objective
14 laboratory data regarding oil samples. Any such information shall
15 be produced in both hard copy and electronic format by September 9,
16 2011.

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18 IT IS SO ORDERED.
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21 Dated: September 1, 2011
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DEAN D. PREGERSON
United States District Judge